

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1773 (PCB SA 04-15) Upgrading Service under the Florida Retirement System  
**SPONSOR(S):** State Administration and Benson  
**TIED BILLS:** None **IDEN./SIM. BILLS:** HB 845, SB 1994

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>State Administration</u>	<u>5 Y, 0 N</u>	<u>Williamson</u>	<u>Everhart</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

This bill eliminates the interest owed by Special Risk Class members upgrading Regular Class credit to Special Risk Class credit for previous service as an EMT or paramedic under another class of membership.

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits. The active membership of the FRS is divided into five membership classes, one of which is the Special Risk Class. The Special Risk Class recognizes that persons employed in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions must perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, as an essential function of their positions. Therefore, they likely could not perform work for 30 years or until age 62.

Current law permits a member of the Special Risk Class who has earned creditable service in another membership class of the FRS as an emergency medical technician (EMT) or paramedic to purchase additional retirement credit to upgrade such service to Special Risk Class Service. Contributions for upgrading such service is equal to the difference in the contributions paid and the Special Risk Class contribution rate as a percentage of gross salary in effect for the period being claimed, plus interest thereon at a rate of 6.5% a year, compounded annually until the date of payment.

An actuarial study is required to determine the fiscal impact to state and local governments. See "FISCAL COMMENTS" section.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1773.sa.doc  
**DATE:** March 16, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |  |   |
|--------------------------------------|---|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

This bill could cause local governments to increase local taxes in order to cover the retirement benefit proposed by this bill.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to more than 600,000 active and 200,000 retired members and beneficiaries of its more than 800 employers.<sup>1</sup> The active membership of the FRS is divided into five membership classes: Regular Class; Special Risk Class; Special Risk Administrative Support Class; Elected Officers' Class; and Senior Management Service Class. Each class is separately funded based upon the costs attributable to the members of that class.

The Special Risk Class was created to recognize that persons employed in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions must, as an essential function of their positions, perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity. As persons in such positions age, they may not be able to continue performing their duties without posing a risk to the health and safety of themselves, the public, and their coworkers. In response, the Legislature established the Special Risk Class to permit such employees to retire at an earlier age and with less service without suffering economic deprivation.<sup>2</sup>

Special Risk Class members:

- Earn retirement credit at the rate of 3% of average final compensation for each year of service.
- Qualify for normal retirement at the age of 55 or with 25 years of service.
- Qualify for a 65% minimum option 1 benefit payment if rendered totally and permanently disabled in the line of duty.

Special Risk Class benefit improvements are funded by high employer contributions.<sup>3</sup>

Current law permits a member of the Special Risk Class who has earned creditable service in another membership class of the FRS as an emergency medical technician (EMT) or paramedic to purchase additional retirement credit to upgrade such service to Special Risk Class Service. Contributions for upgrading such service is equal to the difference in the contributions paid and the Special Risk Class contribution rate as a percentage of gross salary in effect for the period being claimed, plus interest

<sup>1</sup> Department of Management Services 2004 Substantive Bill Analysis, HB 845, February 20, 2004.

<sup>2</sup> Section 121.0515(1), F.S.

<sup>3</sup> Department of Management Services 2004 Substantive Bill Analysis, HB 845, February 20, 2004.

thereon at a rate of 6.5% a year, compounded annually until the date of payment. Such service may be purchased by the employer on behalf of the member.<sup>4</sup>

### **Effect of Bill**

This bill eliminates the interest owed by Special Risk Class members upgrading Regular Class credit to Special Risk Class credit for previous service as an EMT or paramedic under another class of membership. In order to upgrade such credit, the member would only have to pay the difference between contributions required for the two membership classes for the affected period.

#### **C. SECTION DIRECTORY:**

Section 1 amends s. 121.0515(9), F.S., removing the requirement that interest be paid by Special Risk Class members upgrading regular class credit to special risk class credit for specified services performed.

Section 2 provides a declaration of important state interest.

Section 3 provides an effective date of upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

This bill does not create, modify, or eliminate a state revenue source.

##### **2. Expenditures:**

An actuarial study is required to determine the fiscal impact to state government. See "FISCAL COMMENTS" section.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

This bill does not create, modify, or eliminate a local revenue source.

##### **2. Expenditures:**

An actuarial study is required to determine the fiscal impact to local governments. See "FISCAL COMMENTS" section.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

If a tax increase is required to fund the retirement upgrade provided in this bill, persons in the private sector will be affected by that increase.

#### **D. FISCAL COMMENTS:**

Under the terms of the bill, the credit upgrade would be purchased by the member or by the employer, who is allowed (but not required) to pay for the upgrade. If the employer pays for the upgrade, the cost could potentially be passed along to the taxpayers. Once again, the number of affected employees who may take advantage of this opportunity to upgrade service is unknown. Any costs not covered by

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<sup>4</sup> Section 121.0515(9), F.S.

this pricing structure would be shifted to the system and could result in increased contribution rates for all special risk employers.

The cost to the system to permit Special Risk Class members to upgrade service as an EMT or paramedic in another membership class to Special Risk Class value is not known. At present, there are approximately 64,000 members of the Special Risk Class, but it is not known how many have non-Special Risk Class service in such positions in another class that could be upgraded, nor can it be predicted how many would exercise the option to upgrade such service. If the interest in this cost were eliminated causing a substantial reduction in the cost to the member to upgrade such service credit, the probability of eligible members upgrading their service would increase significantly.

However, it is unclear whether there is a hidden cost to the system to permit such class upgrades, because the established statutory cost formula for purchasing the upgraded service is insufficient to fund the true cost of the benefit, and any cost not covered by the formula becomes a system liability that must be addressed in periodic actuarial valuations and experience studies. The price insufficiency is exacerbated for special risk upgrades implemented after July 1, 2000. This is because the upgrading members are only required to pay the contribution rates charged during the affected period of service – during which time a year of special risk service was valued at percentage levels ranging from 2% to 2.8% and funded accordingly – while benefits would be based on upgraded service valued at 3% per year.

Under the current purchase formula to upgrade service credit to the Special Risk Class, the difference between the contribution rates in effect at the time, plus annually compounded interest of 6.50%, does not fully cover the fiscal impact to the FRS resulting from upgraded service credit. Consequently, this unfunded cost is reflected in future valuations and results in higher employer contribution rates for the Special Risk Class.

This bill requires an actuarial special study to meet the actuarially sound funding requirement under Article X, Section 14 of the Florida Constitution and Part VII, Chapter 112, F.S. This bill would shift the cost of upgrading service credit from the member (or the employer paying on behalf of the member) to the FRS without providing any source of funding for this improvement. Ultimately, all employers with Special Risk Class members will pay higher employer contribution rates to properly fund the benefit improvement of only those Special Risk Class members who may have such service instead of this cost being primarily paid by the member benefiting from the upgraded service.<sup>5</sup>

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The mandates provision appears to apply because this bill requires the counties or cities to spend funds or take an action requiring the expenditure of funds; however, an exception applies. The bill provides a declaration of important state interest and similarly situated persons are all required to comply.

##### **2. Other:**

This bill could raise constitutional concerns if an actuarial study is not performed and this bill becomes law. An actuarial study is needed to determine the fiscal impact of this bill. Without knowing the fiscal impact, the state could be in violation of Art. X, s. 14 of the Florida Constitution.

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<sup>5</sup> Department of Management Services 2004 Substantive Bill Analysis, HB 845, February 20, 2004.

## **Article X, s. 14, Florida Constitution**

Since 1976, the Florida Constitution has required that benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

### **Part VII of chapter 112, F.S.**

Article X, s. 14 of the Florida Constitution is implemented by statute under part VII of chapter 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act," which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The key provision of this act states the legislative intent to "prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers."

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.